

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**Before the Board of Patent Appeals and Interferences**

Applicant : MAETZ, Yves et al.  
Serial No. : 10/529,995  
Filed : October 25, 2005  
For : INTERACTIVE TELEVISION RECEPTION AND  
TRANSMITTING PROCESSES AND ASSOCIATED DEVICES  
Examiner : EKPO, Nnenna N.  
Art Unit : 2425

**APPEAL BRIEF**

May It Please The Honorable Board:

This is Appellants' Brief on Appeal from the final rejection of claims 1-14.  
Please charge the \$540.00 fee for filing this Brief to Deposit Account No. 07-0832.  
Appellants waive an Oral Hearing for this appeal.

Please charge any additional fee or credit overpayment to the above-  
indicated Deposit Account. Enclosed is a single copy of the Brief.

**I. REAL PARTY IN INTEREST**

The real party in interest of Application Serial No. 10/529,995 is the Assignee of record:

THOMSON (formerly THOMSON MULTIMEDIA)  
46 QUAI ALPHONSE LE GALLO  
F-92100 BOULOGNE BILLANCOURT, FRANCE

**II. RELATED APPEALS AND INTERFERENCES**

There are currently, and have been, no related Appeals or Interferences regarding Application Serial No. 10/529,995 known to the undersigned attorney.

**III. STATUS OF THE CLAIMS**

Claims 1-14 are rejected and the rejection of claims 1-14 is appealed.

**IV. STATUS OF AMENDMENTS**

All amendments were entered and are reflected in the claims included in Appendix I.

**V. SUMMARY OF CLAIMED SUBJECT MATTER**

Independent claim 1 claims an interactive television process applicable to a system where at least one transmitting station transmits programs to receivers, the process comprising: (page 5, lines 12-15)

a) reception in one of said receivers, of a startup application and of a first application, wherein the triggering of said startup application, where said startup application performs a test, causes an execution of steps b) to d); (page 5, lines 16-19, page 14, lines 31-33, Figure 1, Fig. 2b)

b) testing for a presence in a memory of said receiver of at least one file of additional data; (page 5, lines 20-22, page 14, lines 31-33, Fig. 2b)

c) in the absence of said file of additional data in said memory, starting up of the first application; (page 5, lines 23-25, page 14, lines 34-35, Fig. 2b)

d) if said file of additional data is present in said memory, starting up of a second application, said second application using said file of additional data, where each of said applications is a functional assembly designed for execution at the level of said receiver. (page 5, lines 26-28, page 15, lines 1-3, page 19, lines 8-18, Fig. 2b, Fig. 3, Fig. 7, Fig. 8)

**VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Claims 1-7 and 10-14, stand rejected under 35 U.S.C. §103(a) as being unpatentable over Park et al. (U.S. Patent No. 6,460,180, hereinafter referred to as “Park”), in view of Rodriguez et al. (U.S. Publication No. 2002/0059623, hereinafter referred to as “Rodriguez”).

Claims 8 and 9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Park, in view of Rodriguez, as applied to claim 1 above, and further in view of Junqua et al. (U.S. Publication No. 2004/0236778, hereinafter referred to as “Junqua”).

## **VII. ARGUMENT**

### **Rejection of Claims 1-7 and 10-14 under 35 U.S.C. §103(a) over Park (U.S. Patent No. 6,460,180), in view of Rodriguez (U.S. Pub. No. 2002/0059623).**

The invention, as recited in claims 1-7 and 10-14, is not anticipated by Park and Rodriguez, as asserted by the Examiner. In the present case, the Examiner has failed to show that Park and Rodriguez teach or suggest all of the limitations of independent claim 1. Specifically, it is respectfully submitted that neither Park nor Rodriguez, alone or in combination, disclose a step of:

“if said file of additional data is present in said memory, starting up of a second application, said second application using said file of additional data, where each of said applications is a functional assembly designed for execution at the level of said receiver,”

as described in claim 1.

The present invention allows, among other features, the use of the best available version of an application in an interactive television receiver. In certain embodiments, if additional data files are determined to be present in the receiver, an improved application is executed using these data files. If the data files are not present, a normal application is executed.

In contrast, Park discloses, “information from an information resource may be displayed with television video in a synchronized fashion. A trigger, broadcast along with the television video, identifies the resource and indicates how information from the resource should display. When a trigger is received, the receiver unit determines whether a rule stored in the receiver unit applies to the trigger. For example, if the rule applies, the receiver unit may take a predetermined action, or if the rule does not apply, the rule may have no effect and the receiver unit may act upon the trigger in a normal or default fashion. Based on one or more rules, the receiver unit may ignore certain triggers, but not others. Rules can be automatically loaded into the receiver unit on power-up by one-way broadcast communication, from a permanent storage device, or by downloading from the Internet. The rules can be updated periodically.” (Park Abstract)

The checking of the applicability of rules in Park cannot be considered equivalent to the testing for the presence of additional data files described in the present claims. The test in Park consists of checking if a rule applies to a trigger. (Park Abstract) There is no disclosure of testing of the presence in the memory of a file containing the rules or any other file.

Furthermore, the Examiner cites HTML or XML web pages of Park as representing the applications of the present claims. Applicant respectfully disagrees. HTML pages and XML files are not applications. Both HTML and XML are markup languages. A markup language uses tags to describe the structure of data and how the structured data is to be presented. An HTML or XML file does not serve as an application. Instead, an HTML or XML page is rendered to the user on a presentation engine such as a browser.

As described in the specification and in claim 1, an application of the present claims is capable of “causing execution of steps...” HTML or XML files would not provide this function. The present specification does state:

“The term "application" designates moreover a functional assembly designed to be executed at the level of receivers and/or of terminals downstream, in interaction with a user, preferably in a format rendering it suitable for being broadcast over a network. This functional assembly can in particular include content, in particular of audio and/or video type, software instructions and/or description pages (for example HTML or MHEG [sic]).” (Specification, page 6, lines 1-9)

This only indicates, however, that the “application” functional assembly may include HTML. HTML on its own, as described in Park, would be unable to serve the function required of an application as described in the present claims.

Therefore, Park fails to disclose reception of applications at a receiver, and in turn, fails to disclose starting up of a second application if a file is absent from memory. Thus, Park fails to disclose a step of “if said file of additional data is present in said memory, starting up of a second application, said second application using said file of additional data, where each of said applications is a functional assembly designed for execution at the level of said receiver,” as described in claim 1.

The Examiner asserts that “Rodriguez et al. discloses where said startup application performs a test and if said file of additional data is present in said memory, starting up of a second application, said second application using said additional data, where each of said applications is a functional assembly designed for execution at the level of said receiver (see paragraphs 0107-0111 and fig. 8).” (Office Action, page 3) Applicant respectfully disagrees. Rodriguez, like Park, neither discloses nor suggests receiving a startup application or starting a “second application using said file of additional data,” as recited in the present claim 1.

Rodriguez describes a “dual mode file system in a subscriber network television system, comprising a memory with logic, and a processor configured with the logic to use remote data to support the processor until the logic detects that local data is available.” (Rodriguez Abstract) Rodriguez uses bilateral communication between a transmitting station and receiver including the steps of proposing the loading of enhanced services, acceptance or non acceptance by the user of the receiver, downloading of the enhanced services, and storage of the enhanced services in to the local memory of the receiver. (See paragraphs [0029] - [0031]).

In the paragraphs cited by the examiner, Rodriguez discloses a single “WatchTV” application for presenting TV program along with additional data such as hyper-linked media objects. (Rodriguez [0107]-[0111]) The application “can request, via a GUI, whether the user desires enhanced services” when buffered data objects are available. No startup application is received, and no separate application is started if a file of additional data is available. In Rodriguez, a single pre-existing application offers the user additional function when data has been received.

Therefore, Rodriguez does not disclose reception of applications at a receiver or starting up of a second application if a file is present. Thus, it is respectfully submitted that Rodriguez, like Park, fails to disclose a step of, “if said file of additional data is present in said memory, starting up of a second application, said second application using said file of additional data, where each of said applications is a functional assembly designed for execution at the level of said receiver,” as described in claim 1.

In view of the above remarks and amendments to the claims, it is respectfully submitted that there is no 35 USC 112 enabling disclosure provided by Park or Rodriguez, alone or in combination, which makes the present invention as claimed in claim 1

unpatentable. Since dependent claims 2-14 are dependent from allowable independent claim 1, it is submitted that they too are allowable for at least the same reasons that independent claim 1 is allowable. Thus, it is further respectfully submitted that this rejection has been satisfied and should be withdrawn.

**Rejection of Claims 8 and 9 under 35 U.S.C. §103(a) over Park (U.S. Patent No. 6,460,180), in view of Rodriguez (U.S. Publication No. 2002/0059623), and further in view of Junqua (U.S. Publication No. 2004/0236778).**

Since dependent claims 8 and 9 are dependent from independent claim 1, which are allowable for the reasons described above, it is respectfully submitted that it too should be allowable. Furthermore, it is respectfully submitted that none of Park, Rodriguez, or Junqua, alone or in combination, disclose a method comprising the step of:

“if said file of additional data is present in said memory, starting up of a second application, said second application using said file of additional data, where each of said applications is a functional assembly designed for execution at the level of said receiver,”

as described in claims 8 and 9 through their dependence on claim 1.

In Junqua, “program content, recorded to a storage medium such as disk recorder, optical recorder or random access memory, is indexed by the replay file system. The file system maintains a storage location and program I.D. record for each recorded program. The file system further maintains other data obtained from an electronic program guide that may be accessed by downloading from the cable or satellite infrastructure or over the internet. The file system also may store additional user data, such as the date and time the program was last viewed, together with any user-recorded indexes. The file system may be accessed through natural language input speech. The system includes a speech recognizer and natural language parser, coupled to a dialog system that engages the user in a dialog to determine what the user is interested in accessing from the storage medium. The natural language parser operates with a task-based grammar that is keyed to the electronic program guide data and user data maintained by the file system.” (Junqua Abstract)



Junqua does not disclose, not does the Examiner assert that it discloses, reception of applications at a receiver or starting up of a second application if a file is absent. Thus, Junqua, like Park and Rodriguez, fails to disclose a step of “if said file of additional data is present in said memory, starting up of a second application, said second application using said file of additional data, where each of said applications is a functional assembly designed for execution at the level of said receiver,” as described in claim 1.

In view of the above remarks, it is respectfully submitted that there is no 35 USC 112 enabling disclosure provided by Park, Rodriguez, and Junqua, alone or in combination, that makes the present invention as claimed in claims 8 and 9 unpatentable.

### VIII. CONCLUSION

Park, Rodriguez, and Junqua, fail to teach or disclose all of the limitations of the independent claims. Specifically, Park, Rodriguez, and Junqua, fail to teach a method comprising a step of, "if said file of additional data is present in said memory, starting up of a second application, said second application using said file of additional data, where each of said applications is a functional assembly designed for execution at the level of said receiver," as is described in the present claims. Accordingly, it is respectfully submitted that the rejection of claims 1-14 should be reversed.

Respectfully submitted,  
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**APPENDIX I - APPEALED CLAIMS**

1. (Previously Presented) Interactive television process applicable to a system where at least one transmitting station transmits programs to receivers, the process comprising:
  - a) reception in one of said receivers, of a startup application and of a first application, wherein the triggering of said startup application, where said startup application performs a test, causes an execution of steps b) to d);
  - b) testing for a presence in a memory of said receiver of at least one file of additional data;
  - c) in the absence of said file of additional data in said memory, starting up of the first application;
  - d) if said file of additional data is present in said memory, starting up of a second application, said second application using said file of additional data, where each of said applications is a functional assembly designed for execution at the level of said receiver.
2. (Previously Presented) Interactive television process according to Claim 1, wherein, with said transmitting station comprises at least one link for bilateral communication with said receivers, said process comprises the following prior steps:
  - e) reception of a message proposing loading of said file of additional data into said receiver;
  - f) acceptance or refusal by a user of said receiver, of the proposed loading;
  - g) in case of refusal, exiting from the present process;
  - h) in case of acceptance, automatic downloading of said file of additional data which is usable subsequently by said startup application into said receiver, via said bilateral communication link;
  - i) recording in said memory of said receiver, of said file of additional data.
3. (Previously Presented) Interactive television process according to Claim 2, comprising, before step f), the reception, by said receiver, of at least one cue regarding the contents of said file of additional data, said cue preferably being chosen from among a size, a subsequent date of use, a date of expiry or of validity of the additional data, a date on which the additional data will be used, a broadcasting channel which will use the additional data, and a downloading address.

4. (Previously Presented) Interactive television process according to claim 2, comprising, before step h), a step in the course of which the user indicates a choice of immediate downloading or of deferred downloading of said file of additional data.
5. (Previously Presented) Interactive television process according to claim 2, wherein during step e), the reception of the proposal message is effected upon the reception of an application of the same type as the second application.
6. (Previously Presented) Interactive television process according to claim 1, wherein said file of additional data contains an additional application.
7. (Previously Presented) Interactive television process according to claim 1, wherein during step a), said receiver also receives said second application.
8. (Previously Presented) Interactive television process according to claim 1, comprising a step of automatic erasing of the contents of said memory.
9. (Previously Presented) Interactive television process according to claim 8, wherein a date of erasure is associated with said file of additional data and in that the erasure step comprises a periodic operation of reading this date and an erasure operation when this date is reached.
10. (Previously Presented) Interactive television process according to claim 1, wherein said file of additional data contains data chosen from among at least a piece of software, video data, pictures, sound and a combination of these types of data.
11. (Previously Presented) Interactive television receiver comprising means for testing for the presence in said memory of said receiver, of at least one file of additional data, comprising:
  - means of reception of said startup application and of said first application;
  - and means of starting up the first application in the absence of said file of additional data in said memory and of starting up a second application if said file is present in said memory, said second application using said file of additional data,

where each of said applications is a functional assembly designed to be executed at the level of said receiver, and said receiver preferably being designed to implement an interactive television process in accordance with claim 1.

12. (Previously Presented) Digital television terminal, comprising an interactive television receiver according to Claim 11.

13. (Previously Presented) Process for transmitting applications by a broadcasting station to interactive television receivers, wherein each of said applications is a functional assembly designed to be executed at the level of said receivers and said applications comprise said startup application and said first application, said startup application being intended to cause said test for the presence in a memory of at least one of said receivers, of at least one file of additional data, as well as to start up the first application in the absence of said file of additional data and to start up a second application if said file is present, said second application using said file of additional data, said transmitting process preferably being intended to implement said interactive television process in accordance with claim 1.

14. (Previously Presented) Station for transmitting programs to interactive television receivers, comprising means of production and of transmission of at least one message comprising said startup application and said first application, said startup application being intended to cause said test for the presence in a memory of at least one of said receivers of at least one file of additional data, as well as to start up the first application in the absence of said file of additional data and to start up said second application if said file is present, said second application using said file of additional data, where each of said applications is a functional assembly designed to be executed at the level of said receivers and said transmitting station preferably being intended to implement the transmitting process according to claim 13.

15. (Cancelled).

**APPENDIX II - EVIDENCE**

None.

**APPENDIX III - RELATED PROCEEDINGS**

None.